Kindly make of record the attached verified copy of the priority application, European Patent Application No. 96401099.5.

R E M A R K S

The non-elected claims 82-84 and 86 are cancelled herewith, but may of course be made the subject of a divisional application to be filed while the present application remains pending.

Claim 47 is amended herewith to correct an informality therein, and to place this application in condition for allowance at the time of the next Official Action.

Turning now to the issues raised in the outstanding Official Action, at item 3, claims 48, 52, 56, 57, 59, 60, 62-66, 75, 80 and 81 were rejected under the first paragraph of 35 USC §112, as allegedly being based on a non-enabling disclosure. That rejection is respectfully traversed, for the following reasons.

The text appearing on page 3 of the Official Action criticizes the supporting disclosure for the identified claims, initially on the basis that the specification allegedly fails to identify the fluorochrome used, and the excitation wavelength at which fluorescence is detected. Although the Official Action correctly notes that different fluorochromes fluoresce at different wavelengths, it fails to address the threshold criterion of explaining why the particular fluorochrome used (or, for that matter, any particular fluoro-

chrome), would be critical for practice of the invention as claimed. Consequently, the observation does not support a non-enablement rejection. For interest, we point out that the fluorochromes used in developing the results described in the present specification were fluoresceine isothiocyanate (FITC), which is known to have a wavelength of maximum excitation at 490 nanometers, and a wavelength of maximum emission at 540 nm; and phycoerythrin (PE), which is similarly known to have a wavelength of maximum excitation at 490 nm, and a wavelength of maximum emission at 580 nm.

The fluorescence is of course detected at the respective maximum excitation wavelength of each fluorochrome, as is conventional.

The specification also objected to the expression of mean intensity fluorescence, as a unitless value. However, mean fluorescence units are indeed properly expressed as a unitless value, because they represent an intensity value relative to the intensity of a control. This quantity corresponds to the mean of different intensities measured for several events (for instance, the mean of intensities obtained in cells which give a positive result in a population of about 10,000 cells). Therefore, the values are properly expressed without units, and this also underscores that the particular fluorochromes used for generating such values are not critical for practice of the claims subject to this rejection.

For interest, we point out that the surface antigens are generally detected by full-length antibodies, specific for the surface determinants and covalently bound to FITC or PE.

The CD1c surface protein is detected indirectly, by the addition of a mouse IgG1 anti-CD1c antibody followed by the addition of an anti-mouse IgG1 antibody covalently bound to fluorochrome.

All of these reagents are commercially available. With the exception of the fluorochrome coupled anti-CD1 a antibody, commercialized by the Coulter firm (California, USA), all the antibodies can be purchased from Immunotech (Marseille, France).

From the above discussion, therefore, it is believed to be apparent that the non-enablement rejection of various of the claims is improper and must be withdrawn.

At item 4 of the Official Action, claim 47 was rejected for perceived indefiniteness, arising from an alleged lack of antecedent basis for the term "macrophages". By the present amendment, claim 47 is amended to provide more robust antecedent basis, thereby to obviate that rejection.

The other claims subject to this rejection were rejected for reasons similar to those dealt with above in the non-enablement rejection. From that discussion, it is believed to be apparent that there is no indefiniteness in those claims, given that the recited mean fluorescence units are appropriately a unitless value, and that the nature of a

particular fluorochrome need not be recited in those claims, for their scope to be clear.

Consequently, all of the pending claims as amended herewith are suitably definite.

The only remaining issue in the outstanding Official Action was the rejection of claims 44-66, 75, 76, 80 and 81 under 35 USC §102(e), as allegedly being anticipated by U.S. Patent No. 5,804,442. That rejection is also respectfully traversed.

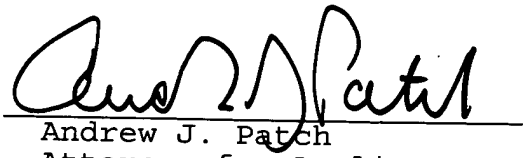
The '442 patent is not prior art to the present application. That patent is prior art only as of its May 28, 1996 U.S. filing date.

On the other hand, the present application enjoys the benefit of the May 21, 1996 filing date of the European priority application, an additional verified copy of which (in English) is attached to the present amendment. Therefore, the prior art rejection must also be withdrawn.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application is now in condition for allowance of claims 44-66, 75, 76, 80 and 81, as amended. Allowance and passage to issue on that basis are therefore respectfully requested.

Respectfully submitted,

YOUNG & THOMPSON

By 

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